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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,938	06/26/2003	Isabelle Lallemant	Q71242	3415
23373	7590	04/14/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			KEASEL, ERIC S	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/603,938	Applicant(s) LALLEMANT ET AL.	
	Examiner Eric Keasel	Art Unit 3754	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because of the use of legal phraseology (e.g. comprising, comprises). Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3, 5, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3, 5, and 11 are dependent on claim 1; however, "the bars" would have proper antecedent basis if the claims were dependent on claim 2. It is unclear if the dependencies on these claims are incorrect or if the claims should have different recitations to side bars.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoyt (US Patent Number 4,732,299).

Hoyt discloses a fluid dispenser comprising two sheets (16, 18) cooperating to define a fluid reservoir (20), at least one of the two sheets defining a deformable actuating wall on which it is possible to press to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (14) to which at least one of the sheets is fixed, said piece defining a dispensing orifice (34) that is closed off by a removable closure member; in which the dispensing piece (14) comprises two side bars (46, 48) which extend on either side of the dispensing orifice; in which the sheets are fixed together over a peripheral-margin of the reservoir along a sealing line that extends at least in part adjacently to the bars, with the bars being situated inside the reservoir; in which the bars form a rigid inner side peripheral margin for the reservoir; in which the sheets are fixed to the bars to define a rigid outer peripheral margin for the reservoir; in which the bars meet to form a closed frame; in which the dispensing orifice opens out at an opening provided in one of the sheets; and dispensing orifice is formed at the bottom of a concave recovery dish from which the fluid can be recovered by the user.

7. Claims 1 and 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Richter et al. (US Patent Number 4,998,990).

Richter et al. discloses a fluid dispenser comprising two sheets (20, 22) cooperating to define a fluid reservoir, at least one of the two sheets defining a deformable actuating wall on which it is possible to press to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (24) to which at least one of the sheets is fixed, said piece defining a dispensing orifice (30) that is closed off by a removable closure member; in which the dispensing orifice opens out at an opening provided in one of the sheets (see Fig. 2); in which the dispensing piece is fixed to the sheet around the periphery of the opening; in which the dispensing piece defines an outlet chamber forming the outlet orifice and fed with fluid from the reservoir through radial channels (see Figs. 4-6); in which the dispensing orifice is formed at the bottom of a concave recovery dish from which the fluid can be recovered by the user; in which the dispensing piece with its bars is received entirely within the reservoir, the sheets being fixed to each other around the dispensing piece; and in which the radial channels are separated by radial ribs having an upper face in contact with the sheet.

8. Claims 1, 2, and 6-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Frazier et al. (US Patent Number 6,179,173).

Frazier et al. disclose a fluid dispenser (see US Patent Number 6,045,006 incorporated by reference for some details) comprising two sheets (15, 22) cooperating to define a fluid reservoir, at least one of the two sheets defining a deformable actuating wall on which it is possible to press

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to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (100) to which at least one of the sheets is fixed, said piece defining a dispensing orifice that is closed off by a removable closure member (250); in which the dispensing piece comprises two side bars (see Fig. 1 of '006) which extend on either side of the dispensing orifice; in which the bars meet to form a closed frame; in which the dispensing orifice opens out at an opening provided in one of the sheets (see Fig. 1 of '006); in which the dispensing piece is fixed to the sheet around the periphery of the opening; in which the dispensing piece defines an outlet chamber forming the outlet orifice and fed with fluid from the reservoir through radial channels (180); in which the dispensing orifice is formed at the bottom of a concave recovery dish from which the fluid can be recovered by the user; in which the dispensing piece with its bars is received entirely within the reservoir, the sheets being fixed to each other around the dispensing piece; in which the radial channels (180) are separated by radial ribs (170) having an upper face in contact with the sheet; and in which the dispensing piece comprises a side facing the sheet and an opposite side facing the sheet, the side facing the sheet forming an outlet chamber, radial channels connecting the chamber to the reservoir and radial ribs separating the channels, the opposite side facing the sheet forming a concave recovery dish communicating with the chamber through the outlet orifice, the sheet being tightly fixed to the plate around the dish.


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*Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (571) 272-4929. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12 APR 2005  
Eric Keasel  
Primary Examiner  
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